



## Department of Public Service

**Rory M. Christian**  
Chair and  
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June 7, 2023

Via Email and U.S. Mail

Honorable Mark Fischl, Vice Chairman  
Board of Trustees  
Long Island Power Authority  
333 Earle Ovington Blvd.  
Uniondale, New York 11553  
[boardoftrustees@lipower.org](mailto:boardoftrustees@lipower.org)

Re: Matter 22-02436: DPS Recommendations Regarding PSEG Long Island's 2023  
Emergency Response Plan.

Dear Vice Chairman Fischl:

In accordance with the LIPA Reform Act (LRA), the New York State Department of Public Service (DPS or the Department) reviews and makes recommendations regarding the Emergency Response Plan (Plan or ERP) of the Long Island Power Authority (LIPA or Authority) and PSEG Long Island (PSEG LI or Service Provider). Accordingly, DPS recommends adoption of the amended ERP filed on May 30, 2023.

The LRA contains numerous provisions intended to improve the transmission and distribution of electric service and the restoration of service after emergency events for customers on Long Island and the Rockaways. To that end, the LRA requires that DPS annually review the ERP of the Authority and its Service Provider to determine the Plan's consistency with applicable requirements of the Public Service Law (PSL), Public Service Commission (PSC or Commission) regulations, and PSC orders, and recommend modifications as necessary.<sup>1</sup>

On December 15, 2022, consistent with the requirements of the LRA, PSEG LI filed its Plan.<sup>2</sup> Following the December filing, DPS Staff (Staff) reviewed the ERP to ensure that it conformed with the requirements set forth in PSL §66(21) and 16 NYCRR Part 105. In its review, DPS Staff recommended modifications, as appropriate, and worked collaboratively with PSEG LI to implement the modifications to strengthen its ERP. PSEG LI addressed Staff's concerns in its amended Plan filed on May 30, 2023, as such, DPS recommends the amended

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<sup>1</sup> Public Service Law §3-b(3)(c).

<sup>2</sup> Matter 22-02436, In the Matter of the December 15, 2022 Emergency Response Plan of the Long Island Power Authority and PSEG Long Island (2023 Plan), PSEG LI Emergency Restoration Plan (filed December 15, 2022).

ERP be adopted.<sup>3</sup> Further, PSEG LI's ERP is consistent with the applicable areas of law and the regulations and PSC Orders promulgated thereto.

Overall, the Department's review of the ERPs focuses on incorporating best practices, clarifying roles and responsibilities, improving the crew mobilization and demobilization processes, and resource tracking. Additionally, while reviewing the initial ERP filing, Staff recommended numerous specific changes or updates to be included in PSEG LI's ERP, which relate to customer communications, information technology, outreach to government representatives, workforce readiness, utility employee exemption from travel bans and support for Life Support Equipment (LSE) Customers. The specific changes are discussed below.

### Customer Credits and Reimbursements

PSEG LI's ERP has been revised to include communication plans notifying customers how to apply for reimbursement for spoiled food and medicine due to widespread and/or prolonged outages. LIPA recently amended its Tariff to increase protections to help customers who have experienced a widespread prolonged outage. Customers may obtain reimbursement for spoiled food or medicine if they experience a widespread prolonged outage and meet certain eligibility criteria.<sup>4</sup>

A widespread prolonged outage is a service outage that lasts at least 72 consecutive hours. Also, customers may be eligible to receive outage credits for every 24-hour period they are without service beyond the initial widespread prolonged outage. Although these measures will protect customers in the event of a widespread prolonged outage, customers must be made aware of them to receive that protection.

Ensuring adequate customer protection is at the heart of DPS' mission, the Department has ensured that the Investor-Owned Utilities (IOUs) developed communication plans relating to widespread prolonged outages. In its Order approving the 2023 IOU ERPs, the Commission referenced the fact that the ERPs included communication plans to inform customers about the availability of reimbursement and outage credits for a widespread prolonged outage.<sup>5</sup> These communication plans will ensure that customers receive sufficient notice of the availability of reimbursement for a widespread prolonged outage.

As part of its recommendation letter in support of LIPA's Tariff amendment, DPS recommended that LIPA and PSEG LI create a communication plan that explains how they will notify customers about the availability of outage credits and reimbursement for spoiled food and medicine.<sup>6</sup> Consistent with the Commission Order that implemented Public Service Law (PSL) §73, DPS recommended that LIPA and PSEG LI include these communication plans in their next ERP.

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<sup>3</sup> Matter 22-02436, supra, PSEG LI Emergency Response Plan (filed May 30, 2023) (PSEG LI ERP).

<sup>4</sup> Matter 22-00945, Tariff Filing of Long Island Power Authority to Modify its Tariff for Electric Service 2022, Approval of Tariff Changes (December 14, 2022) pp. 205-206.

<sup>5</sup> Case 22-M-0159, Proceeding to Implement Customer Credits and Reimbursements Pursuant to Public Service Law Section 73, Order Implementing Public Service Law Section 73 (Issued July 14, 2022) p. 28.

<sup>6</sup> Matter 22-00945, supra, Recommendation Letter Regarding LIPA's Proposed Modifications to its Tariff for Electric Service (December 9, 2022) p. 14.

In the meantime, PSEG LI added language that detailed their current communication plans for notifying customers about the availability of outage credits and reimbursement for spoiled food and medicine. These changes align PSEG LI's ERP with the changes mandated by the Commission for the IOU ERPs.

#### Life Support or Other Medical Equipment

PSEG LI has updated its ERP to include a detailed list of the medical equipment that qualifies as Life Support Equipment and affords their users certain protections during a storm event. Utility companies are required to contact LSE customers daily during a storm event. LSE customers are defined in 16 NYCRR §105.4(b)(9) as those customers who require electrically operated equipment to sustain basic life functions. Additionally, LSE customer accounts have a special code, and their meters have a special seal to prevent disconnection. To ensure the safety of LSE customers during large scale storm or electric emergencies, 16 NYCRR Part 105 contains extensive outreach requirements that the IOUs must follow, and PSEG LI has also incorporated these requirements into its ERP.

Although LSE customers do not receive restoration priority, they are afforded certain protections when affected by power outages due to their medical vulnerability. PSEG LI will prioritize an outage with an LSE customer over an outage without an LSE customer. Also, PSEG LI has outreach plans to ensure that these customers are contacted “before, during, and after a large-scale storm or electric system emergency when extended outages are expected to last more than 48 hours.”<sup>7</sup>

Recently, PSL § 66(21)(a) was amended to include a detailed list of the medical equipment that would qualify for “essential electricity for medical needs.” The IOUs updated their ERPs to include the list of qualifying medical equipment to ensure consistency with the new statutory requirement. Further, DPS recommended that PSEG LI update their ERP to include a list of the qualifying medical equipment that is consistent with the new provisions contained at PSL § 66(21)(a). PSEG LI updated their ERP on May 30, 2023, to include a list of the medical equipment contained at PSL § 66(21)(a). With these changes, PSEG LI's ERP is consistent with the IOU ERP's that the Commission approved in its April 20, 2023, Order.<sup>8</sup>

#### Cyber Incidents Impacting Electric Service

Utility companies are now required to ensure that their ERPs can provide customers with prompt restoration of service due to an outage caused by a cyber-attack. PSL § 66(21)(a) was amended to include a cyber-attack within the definition of an emergency event. As our energy grid increasingly relies on multi-directional data transference between the customer and utility company, the risk of a cyber-attack also increases. Utility companies must be prepared to meet this rising threat and their ERPs must be applicable to the cyber security threat.

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<sup>7</sup> PSEG LI ERP at p. 168.

<sup>8</sup> Case 22-E-0678, In the Matter of December 15, 2022 Electric Emergency Response Plan Review (2023 Plan), Order Approving Emergency Response Plan (Issued April 20, 2023).

In response, the IOUs have updated their ERPs to include a cyber-attack as one of the causes of a widespread outage, which their ERPs must be designed to handle from both an operational and a communications perspective. The Commission acknowledged these changes by the IOUs and highlighted the importance of vigilance against cyber threats, stating “the Utilities must view such a risk as a very serious threat.”<sup>9</sup> Further, the Commission recognized that this change “reinforces an all-hazards planning principle.”<sup>10</sup>

To ensure that PSEG LI’s ERP was aligned with this new requirement, DPS recommended that they revise their draft ERP to include appropriate language pertaining to the cyber security threat. PSEG LI updated its ERP to include appropriate language that explains that their ERP is applicable to the threat from cyber-attacks. This revision acknowledges that the ERP is intended to “mitigate consequences” from outages due to cyber- attacks.<sup>11</sup> The added reference only pertains to cyber-attacks that have a physical impact that would require restoration activity covered by the ERP. Further, the cyber-attack reference in the ERP would not pertain to PSEG LI’s internal cyber response capabilities or plan.

### Communication and Coordination Efforts

PSEL LI’s ERP is required to contain the same type of emergency outreach and communications plans that the IOUs have in their ERPs. PSL § 3-b(3)(c) requires DPS to review PSEG LI’s ERP and determine whether it is consistent with the requirements applicable to the IOU ERPs, which are contained in PSL § 66(21)(a)-(g). PSL § 66(21)(a) requires the IOUs to include in their ERP’s “a communications system with customers during an emergency that extends beyond normal business hours and business conditions.” Also, PSL § 66(21)(a) requires the IOUs to designate staff in their ERPs who will be responsible for communicating with local officials and agencies during an emergency event. PSEG LI must also meet these requirements because PSL § 66(21)(a) is essentially incorporated by reference in PSL § 3-b(3)(c).

Since 2021, the Commission has directed the IOUs to add best practices to their ERP to improve communication response with customers, first responders and neighboring utility companies. Through its recommendations the Department continues to align PSEG LI’s ERP with the Commission’s directives concerning responsive and accurate communication. During an emergency event customers and public officials rely on the utility company to provide them with regular service-related updates across multiple media channels.

PSEG LI’s ERP contains sections with details pertaining to outreach to public officials and communication protocols for delivering service-related information to the public during storm events. The section pertaining to elected official and municipal outreach is designed to “provide two-way communications before, during, and throughout the event” to public officials so they may provide accurate information to their residents.<sup>12</sup> This two-way communication entails communication prior to storm events, storm damage updates, and responding to inquiries

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<sup>9</sup> Id., at p. 5.

<sup>10</sup> Id., at p. 6

<sup>11</sup> PSEG LI ERP at p. 15.

<sup>12</sup> PSEG LI ERP at p. 174.

raised by municipal and elected officials. Further, PSEG LI is required to track communications to public officials to ensure that this requirement is met.

PSEG LI's ERP also contains a section on communications that will ensure that the company provides its customers and first responders with storm preparation, outage, and restoration information across multiple communication channels. This information will be designed so customers and first responders can make informed decisions during a storm or emergency event. Also, PSEG LI has a municipal hotline that municipal officials may call to inform the utility of critical issues. As a result of the collaborative work between the Department and PSEG LI over the years, PSEG LI's ERP contains detailed communication and emergency outreach plans that are consistent with the IOUs ERPs.

### Travel Ban Exemption

Utility workers are essential employees during an emergency event, and it is critical that utility workers who are responsible for restoring or maintaining power are able to access disaster areas. The legislature has recognized the importance of utility workers as part of disaster response efforts. In 2022, the Executive Law was amended to exempt utility workers, that are needed to restore or maintain power, from a travel ban designed to control entry or exit from a disaster area.<sup>13</sup> Further, the IOUs have updated their ERPs to recognize the fact that their employees have access to areas that have been declared a disaster area, which was also recognized by the Commission in its April 20, 2023, Order.<sup>14</sup>

As part of its review of PSEG LI's draft ERP, Staff recommended that PSEG LI add language pertaining to the utility worker exemption from travel bans. PSEG LI made the recommended change and included language in their ERP which states that utility workers are exempt from New York State travel bans to perform work pertaining to power restoration or maintenance. This change will align PSEG LI's ERP with the ERPs of the rest of the electric utilities in New York and ensure that PSEG LI's workers are aware that they are exempted from travel bans in order to maintain or restore power.

### Incident Classifications

A common incident classification framework across all utility companies, including PSEG LI, will help to improve the clarity of communication with outside parties, such as stakeholders, emergency responders, government officials and customers. To build upon the 2021 Commission Order, which referenced the importance of standard terminology and storm classification, Staff met with the IOUs and PSEG LI on September 28, 2022. At this meeting, the parties discussed the need for standardized incident classification and determined that outage duration was the "core component to base the revised classifications on." Further, the Commission acknowledged that "the ERPs use the outage duration as the determining factor for classifying incidents for all the Utilities and contain streamlined common information for parties external to each utility to level set expectations."<sup>15</sup>

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<sup>13</sup> 2022 N.Y. Sess. Laws Ch. 724.

<sup>14</sup> Case 22-E-0678, supra, Order Approving Emergency Response Plan (Issued April 20, 2023) p. 7.

<sup>15</sup> Id., at p. 8.

Staff recommended that PSEG LI update its ERP to utilize the same incident classification as the IOUs. More specifically, Staff recommend that PSEG LI include the same incident classification table that the IOUs utilize and update their incident classifications throughout the ERP, so they are consistent with the incident classification table. PSEG LI made the suggested changes in the ERP that they filed on May 30, 2023.<sup>16</sup> With these changes PSEG LI's ERP has similar incident classification language as the IOU ERPs.

#### Other Improvements

PSEG LI's ERP also contains additional improvements that make it more responsive to its customers' needs during an outage. PSEG LI's ERP has been updated to explain the necessity to follow up with third-party referrals concerning Life Support Equipment customers. When initial call attempts to reach the customers are unsuccessful, additional methods to make contact are utilized, including wellness visits by PSEG LI Outreach Liaisons. Occasionally, LSE customers will be referred to City or County EOCs (Nassau, Suffolk and NYC) for wellness visits to be conducted by emergency response agencies, human services, and volunteer organizations. The amended ERP clarifies that EOC liaison or emergency preparedness staff will follow up with City/County EOC partners to verify whether contact was made.

Additionally, DPS Staff recommended grammatical corrections and updates to use more inclusive language. PSEG LI subsequently amended their ERP to include the appropriate use of "e.g." to refer to non-exclusive examples and "i.e." to refer to a clarifying statement or exhaustive list. PSEG LI's ERP does not contain the gendered pronouns, "she" and "he." Instead, PSEG LI's ERP utilizes gender neutral terminology, and the terminology associated with individuals with disabilities reflects the most accurate representation.

PSEG LI's ERP also has been updated to reflect Federal Emergency Management Agency (FEMA) training related to Incident Command System's (ICS) that its Command and restoration staff undergoes to improve their awareness of ICS principles. These training courses introduce attendees to the structure of the ICS and its relationship to the National Incident Management System (NIMS) and provides an overview of NIMS. NIMS provides an incident response structure that's designed to govern all levels of government and the private sector so they may work together to respond to incidents. The training course on NIMS will provide attendees with a guide to managing resources and organizing emergency response staff.

DPS Staff also made recommendations that PSEG LI keep language in the ERP to ensure PSEG LI meets the requirements contained in the ERP rather than merely supports the goals of the ERP. PSEG LI has clarified the language for storm restoration training requirements for all employees based upon Staff's recommendation. All PSEG LI employees are assigned ERP and ICS training on an annual basis and additional training is provided based on storm roles and training needs. PSEG LI has also clarified the requirement for an Emergency Preparation and Response (EP&R) scorecard for any outage event with a duration longer than 48 hours. Also, PSEG LI is required to complete the scorecard within 30 days of the completion of customer restoration to LIPA for a 48-hour outage event and both LIPA and DPS for a 72-hour outage event.

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<sup>16</sup> PSEG LI ERP at p. 64.

Conclusion

After several rounds of discussion between Staff and PSEG LI, the final ERP represents an improvement over the initial version that was filed on December 15<sup>th</sup>. Although the process delineated within PSEG LI's ERP has been improved, the Company must always adhere to the preparation, communication, and restoration requirements contained within the ERP. If PSEG LI follows the requirements contained in its ERP, customers and government representatives can expect better communication from the Service Provider. Further, PSEG LI will be better prepared to face severe storms and any related outage events.

Both the Department and the people of Long Island look to PSEG LI to make constant improvements to the quality and level of its service. One way to ensure that PSEG LI meets this goal is for the parties to continue to have collaborative discussion about the requirements contained in the company's ERP. While the current changes to PSEG LI's ERP will improve the company's ability to meet its customers' needs during major outage events, the increasing number of major storm events require continuous modification and improvement to the ERP.

Overall, PSEG LI's ERP remains consistent with the applicable areas of law and the regulations and Commission orders promulgated thereto. The amended ERP has been enhanced to address specific issues and reflect best practices and incorporates the corrective actions identified in the Commissioner Order, and should, therefore, be adopted.

Respectfully submitted,



Rory M. Christian  
Chief Executive Officer

CC: Thomas Falcone, LIPA Chief Executive Officer  
Bobbi O'Connor, LIPA General Counsel and Secretary to the Board of Trustees  
Dave Lyons, PSEG LI Interim President, and Chief Operating Officer  
Carrie Meek Gallagher, DPS LIO Director  
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